

**THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	
Inventors: Colin Andrew LOW et al.	: Confirmation No. 1504
	:
U.S. Patent Application No. 09/977,497	: Group Art Unit: 2157
	:
Filed: October 16, 2001	: Examiner: El Hadji Malick Sall
For: INVITING ASSISTANCE ENTITY INTO A NETWORK COMMUNICATION SESSION	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attn: BOARD OF PATENT APPEALS AND INTERFERENCES

**APPELLANTS' REPLY BRIEF (37 C.F.R. 1.192)**

Appellant submits this Reply Brief in response to the Examiner's Answer mailed January 2, 2008.

To the extent necessary, Appellant hereby requests any required extension of time under 37 C.F.R. §1.136 and hereby authorizes the Commissioner to charge any required fees not otherwise provided for to Deposit Account No. 08-2025.

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## **I. Status of Claims**

No claims are allowed.

Claim 21 has been canceled.

Claims 1-3, 7-10 and 12-15 are rejected under 35 U.S.C. 102(e) as being unpatentable over *Owen et al.*, USP 6,611,501. Claims 4-6, 11, 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Owen et al.*, USP 6,611,501, in view of *Brown et al.*, USP 6,385,646.

## **II. Grounds of Rejection to be Reviewed on Appeal**

- A. Whether the PTO is correct in rejecting claims 1-3, 7-10 and 12-15 under 35 U.S.C. 102(e) as being unpatentable over *Owen et al.*, USP 6,611,501.**
- B. Whether the PTO is correct in rejecting claims 4-6, 11, 16 and 20 under 35 U.S.C. 103(a) as being unpatentable over *Owen et al.*, USP 6,611,501, in view of *Brown et al.*, USP 6,385,646.**

### III. Argument

#### A. *Owen et al.* Does Not Anticipate Claims 1-3, 7-10 and 12-15

The rejection of claims 1-3, 7-10 and 12-15 under 35 U.S.C. §102(e) as being unpatentable over *Owen et al.*, U.S. Patent 6,611,501 remains incorrect and hereby traversed. A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. *Owen* fails to disclose every element of claims 1-3, 7-10, and 12-15 (and claims 17-19).

##### 1. PTO has not applied the reference to reject claim 1

The PTO has again failed to completely address claim 1 with respect to *Owen*, i.e., the PTO has failed to identify how *Owen* anticipates each element of claim 1. Other than mentioning claim 1 at page 4, section 2 of the Examiner's Answer (EA), the PTO fails to identify how the reference anticipates claim 1. The discussion at pages 4-5 is directed to the claimed service system as claimed in claim 17 and not to the method of inviting an assistant entity into an existing communication session as claimed in claim 1. Inasmuch as the PTO argues that Appellant must "provide some form[] of evidence that convincingly show that Examiner's references do not meet the claims language" at pages 15-16 of the EA, it is incumbent on the PTO to identify with particularity how the reference is applied to the subject matter of independent claim 1. For at least this reason, reversal of the rejection is respectfully requested.

2. Claim 1 is patentable over *Owen*

*Owen* fails to select an appropriate assistant entity taking account of context of an existing communication session

The PTO asserts that "*Owen* explicitly discloses the assistant-selection means or the User Agent Manager 'taking account of the context of the existing communication session'" **without** identifying any support in *Owen* for the assertion. In particular, the PTO has again failed to identify where *Owen* discloses the User Agent Manager taking account of the context in selecting an appropriate assistant entity. Further, the PTO has again failed to identify where *Owen* discloses a context of an existing communication session being used in the foregoing selection. With respect to the latter, because there is no existing communication session (the relied-upon portion of *Owen* appears to describe the manner of establishing a communication session and not an existing communication session), there can be no context of a non-existent communication session. For either of the foregoing reasons, reversal of the rejection is respectfully requested.

User Agent is not an assistant entity

The PTO asserts that both "User Agent and assistant entity have the same functionality." EA at page 13, section C. The PTO appears to be relating solely the fact that the User Agent comprises software and the fact that the presently disclosed assistant entity may be a software automaton to reach such a conclusion. The PTO appears to have disregarded the fact that even as a software automaton, the assistant

entity must provide the functionality of a customer service representative as disclosed. The PTO has failed to identify how the User Agent of *Owen* provides the customer service representative functionality of an assistant entity according to the present claimed subject matter. For at least this reason, reversal of the rejection is respectfully requested.

#### UAM fails to take account of context data

The PTO asserts that *Owen* "explicitly discloses the assistant-selection means or the User Agent Manager 'taking account of the context data.'" EA at page 14, section D. This is incorrect for at least the reasons set forth above, i.e., *Owen* fails to disclose use of the context data in selecting an appropriate assistant entity and *Owen* fails to disclose use of context data of an existing communication session. For at least this reason, reversal of the rejection is respectfully requested.

For each of the foregoing reasons, the rejection of claim 1 is respectfully requested to be reversed.

Claims 2-3, 7-10, and 12-15 depend from claim 1, include further limitations, and are patentable over *Owen* for at least the reasons advanced above with respect to claim 1 from which they depend. Reversal of the rejection of claims 2-3, 7-10, and 12-15 is respectfully requested.

#### 3. Claim 17 is patentable over *Owen*

The User Agent Manager (UAM) of *Owen* is not an assistant-selection means as claimed in claim 17

The PTO continues to assert that *Owen* discloses an assistant-selection means in the form of the UAM. This remains incorrect because *Owen* fails to take account of the context of the existing communication session as claimed in the present claimed subject matter of claim 17. As set forth above with respect to claim 1, in *Owen* there is no existing communication session to which the endpoint entity is joined. Because there is no existing communication session, there cannot be context data concerning an existing session on which the UAM would base a selection of an assistant entity as claimed. For at least this reason, reversal of the rejection is respectfully requested.

Claim 17 is patentable over *Owen* for at least reasons similar to those advanced above with respect to claim 1. For at least this reason, reversal of the rejection of claim 17 is respectfully requested.

For each of the foregoing reasons, the rejection of claim 17 is respectfully requested to be reversed.

Claims 18-20 depend from claim 17, include further limitations, and are patentable over *Owen* for at least the reasons advanced above with respect to claim 17 from which they depend. Reversal of the rejection of claims 18-20 is respectfully requested.



**B. *Owen et al.* and *Brown et al.* Do Not Anticipate Claims 4-6, 11, 16 and 20**

The rejection of claims 4-6, 11, 16 and 20 under 35 U.S.C. §103(a) as being unpatentable over *Owen* in view of *Brown* remains traversed. Claims 4-6, 11, 16, and 20 are patentable over *Owen* for at least the reasons advanced above with respect to independent claims 1 and 17, respectively, from which they depend and as described above. Because *Brown* fails to disclose at least "selecting, by the service system, an appropriate assistant entity from a group of assistant entities taking account of context data concerning an existing session responsive to receipt of a request from a first endpoint entity, where the first endpoint entity is already joined to the session, and constituted by a party having an endpoint system connected to the network, to the service system requesting the presence of an assistant entity in the session, the request directly or indirectly indicating the identity of the existing session" and "assistant-selection means arranged to be responsive to the receipt of said request by the request-reception means to select an appropriate assistant entity from a group of possible assistant entities taking account of the context of the existing communication session, the assistant-selection means being operative to cause the session entity to join the selected assistant entity to the session," *Brown* fails to cure the above-noted deficiencies of *Owen* and the rejection is respectfully requested to be reversed.

With respect to the PTO's assertion that Appellants' arguments are "not found to be of substantial evidential value," Appellants direct the PTO's attention to the substantial evidence presented, in the form of numerous deficiencies in the PTO's application of *Owen* to the independent claims, which has not been overcome by the

PTO. Appellants have specifically pointed out how the language of the independent claims patentably distinguishes them from the reference and by virtue of the dependency of claims 4-6, 11, 16, and 20 therefrom, Appellants have identified how at least a portion of the dependent claims are patentably distinguished from the applied reference. For at least this reason, reversal of the rejection is respectfully requested.


#### **IV. Conclusion**

For each of the extensive reasons advanced above, reversal of the rejection is in order.

Respectfully submitted,

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